

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:06-CR-255

v

Hon. Gordon J. Quist

DEONYTE WILLIAMS,

Defendant.

/

**ORDER DENYING MOTION TO WITHDRAW
AS ATTORNEY OF RECORD**

Pending before the court is a motion by Hugh B. Clarke, Jr., Attorney for Defendant Deonyte Williams, to withdraw as counsel (docket no. 55). Counsel contends that he does not believe he will have adequate time to prepare for the March 13, 2007 trial in this matter. Counsel's motion is not supported by the record and will be denied.

On November 11, 2006, this court issued an order scheduling trial to commence on January 23, 2007. Counsel entered his appearance for Williams two days later.

On December 4, 2006, three weeks later, the Ingham County Circuit Court scheduled a trial for another one of Mr. Clarke's clients to commence on January 29, 2007. This is a homicide trial estimated to last 4 to 6 weeks.

The trial in the present federal case is estimated to last 2 to 3 days, and it does not appear that it would have interfered with the Ingham County case which was to have started a week later. However, on December 28, 2006, Mr. Clarke filed a request for an adjournment of the trial in this court, setting forth his concern that preparation for the Ingham County Circuit Court case

would not leave him adequate time to prepare for the trial in this court. Accordingly, he requested an ends of justice continuance “until March 2007.” In fact, in support of his motion, Mr. Clarke drafted a proposed order of adjournment, rescheduling this case “until a date sometime in March 2007.”

On January 4, 2007, this court granted Mr. Clarke precisely the relief he requested, an ends of justice continuance rescheduling the trial in the federal case until March 13, 2007.

Counsel now returns to this court and, raising exactly the same arguments he raised in support of his motion for an ends of justice continuance, requests that he be allowed to withdraw as attorney of record, and he asks the court to appoint another attorney to finish representing his client in this matter.

Mr. Clarke’s motion is deficient for three reasons.

First, counsel has been aware of the date for Ingham County Circuit Court homicide trial since December 4, 2006. When he eventually became sufficiently concerned about the possible conflicting demands on his time, he came to this court (even though this court had been the first of the two courts to schedule its trial) and, raising these concerns, obtained a seven-week ends of justice continuance of the federal case until the middle of March. He obtained the relief he sought. Now, however, just three weeks later, he again comes to this court seeking significant additional relief and yet presents no new facts nor rationale to justify it.

Second, bringing in a new attorney at this stage will quite likely require this court to adjourn its trial date again.

Third, counsel is retained in this matter. There is no indication his client concurs with counsel withdrawing as attorney of record, and the motion would suggest he does not.¹ There is no explanation in the motion as to why, if Mr. Clarke was retained to represent Mr. Williams, another attorney could not have been retained in his place.² Nor is there any indication that Williams is indigent.

In summary, although the federal case was initially scheduled for trial prior to the homicide trial being scheduled in the Ingham County Court, this court granted defendant's motion to adjourn its trial for nearly two months. Nevertheless, counsel now seeks to withdraw from representation of the defendant altogether, which will probably require a further continuance of Mr. William's trial. Since counsel has offered nothing new in support of his motion, has not indicated concurrence by his client, and has offered no reason that other counsel could not have been secured, the motion will be DENIED.

IT IS SO ORDERED.

Dated: January 24, 2007

/s/ Hugh W. Brenneman, Jr.

Hugh W. Brenneman, Jr.
United States Magistrate Judge

¹Counsel states in his motion that "undersigned counsel believes that while defendant may not agree [with the motion] . . . "

²It would appear that if Mr. Clarke has not had time to devote to the present case, as he suggests in both his motion to withdraw and his previous motion to adjourn, there would be sufficient funds remaining from his retainer to bring in another attorney.